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APR 06 2006

OFFICE OF PETITIONS

In re Application of :  
Hedlund, et al. :  
Application No. 09/840,029 :  
Filed: April 24, 2001 :  
Attorney Docket No. 1579-561 :  
: DECISION DISMISSING PETITION  
: UNDER § 1.183  
:  
:

This is a decision on the petition under 37 C.F.R. § 1.183, filed July 11, 2005, to waive the requirement under § 1.136(a) for an extension of time fee.

The petition under 37 CFR 1.183 is DISMISSED.

Petitioner is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.183".

On March 17, 2004, the Office mailed a restriction requirement. Applicants filed a election, with traverse, on April 7, 2004. The next Office action mailed was on July 22, 2004. Applicants then filed a petition for withdrawal of the restriction requirement set forth in the March 17, 2004 Office action. Before a decision was mailed, Applicants filed a reply to the July 22, 2004 Office action on October 21, 2004. The Office mailed a response on January 12, 2005. Next, the Office mailed a decision granting the petition on June 7, 2005. Applicants have filed the instant petition, together with a response to the January 12, 2005 Office again, on July 11, 2005. Applicants request that the fee for a three month extension of time be waived.

Under 37 C.F.R. § 1.183, any requirement of the regulations, which is not a requirement of the statutes, may be waived by the Commissioner's designee in an extraordinary situation, when justice so requires. Petitioner has neither demonstrated that this is an extraordinary situation, or that justice requires waiver of the rules. 37 C.F.R. § 1.181 states that the mere filing of a petition (in this case, the petition for withdrawal of the restriction requirement) "will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings." Applicants could have filed a response to the January 12, 2005 non-final Office action on or by April 12, 2005 without an extension of time.

The \$510 fee for a three month extension of time has been charged to Deposit Account No. 14-1140, as authorized.

The matter is being forwarded to the Office of Patent Publications for processing into a patent.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3207.

*Cliff Congo*

Cliff Congo  
Petitions Attorney  
Office of Petitions